

### III. REMARKS

#### A. Status of the Application

Claims 60-122 were previously pending. Claims 60-75 were previously withdrawn as being directed to a non-elected invention. No claims are added or cancelled by the present paper. Reconsideration of claims 76-122 is respectfully requested in light of the following remarks.

#### B. Rejections under 35 U.S.C. §103

**Claims 76-99 and 101-122** stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2005/0131536 to Eisermann et al. ("the Eisermann application") in view of U.S. Patent Application Publication No. 2004/0260286 to Ferree ("the Ferree application"). **Claim 100** stands rejected under 35 U.S.C. §103(a) as being unpatentable over the Eisermann and Ferree applications as applied to claim 76 in further view of U.S. Patent No. 5,658,337 to Kohrs et al. ("the Kohrs patent"). These rejections are respectfully traversed because at least the Eisermann application is not prior art under §103.

35 U.S.C. §103(c) provides that:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

With respect to the present application, the Eisermann application qualifies as prior art only under §102(e). Further, the present application and the Eisermann application were, at the time the invention of the present application was made, owned by or subject to an obligation of assignment to SDGI Holdings, Inc. In that regard, the Eisermann application and the present application are both assigned to SDGI Holdings, Inc. The Eisermann application is assigned of record to SDGI Holdings, Inc. at reel 014804, frame 0327. The present application is also assigned of record to SDGI Holdings, Inc. at reel 015240, frame 0231. Accordingly, the

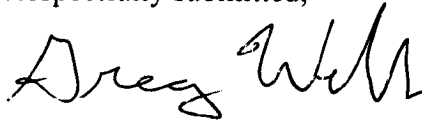
Eisermann application is not prior art under §103 with respect to the present application. Since the §103 rejections of claims 76-122 in the present Office Action are based upon the Eisermann application, Applicants request that the rejections be withdrawn.

#### IV. Conclusion

It is believed that all matters set forth in the Office Action have been addressed and that pending claims 76-122 are in condition for allowance.

The examiner is invited to call the undersigned attorney if a telephone conference would expedite or aid the examination of this application.

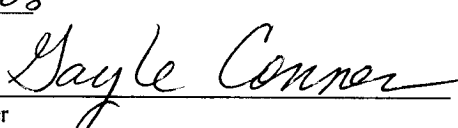
Respectfully submitted,



Gregory P. Webb  
Registration No. 59,859

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HAYNES AND BOONE, LLP  
Customer No. 46333  
Telephone: 972/739-8641  
Facsimile: 214/200-0853  
Client Matter No.: PC862.00  
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I hereby certify that this correspondence is being filed with the U.S. Patent and Trademark Office via EFS-Web on <u>2-14-08</u>
 Gayle Conner